

EXHIBIT 13 SHOWING  
UTILITY USE AGREEMENT

LDWSF

12.3.313.1 VI

06/20/1997

1997

USE AGREEMENT

This agreement is entered into this 20<sup>th</sup> day of June, 1997, between BANK OF AMERICA NT & SA., doing business as SEAFIRST BANK, a National Bank; SUZANNE M. HITTMAN and JACQUELINE E. DANIELI, Co-Trustees under the Will of Assunta Desimone, deceased; and BANK OF AMERICA NT & SA. doing business as SEAFIRST BANK, and SUZANNE M. HITTMAN and JACQUELINE E. DANIELI, Co-Trustees under the Will of Guiseppe Desimone, deceased ("Owner A"); the heirs and devisees of KATHERINE M. DESIMONE, deceased; JOSEPH R. DESIMONE and RICHARD L. DESIMONE, JR., both individually and as Co-Trustees under the Last Will and Testament of Richard L. Desimone, deceased, and as Personal Representatives for the Estate of Katherine M. Desimone; and RICHARD L. DESIMONE, JR., as Trustee of the Richard L. Desimone III Trust, the John A. Desimone Trust, and the Ann M. Desimone Trust ("Owner B").

RECITALS:

A. Owner A and Owner B are the owners of that certain real property generally known as the Oxbow Corporate Park, which is legally described as is set forth on Exhibit A, attached hereto (the "Property"). Owner A owns that portion of the Property labeled on Exhibit A as Lot 1 and Lot 2, and Owner B owns that portion labeled on Exhibit A as Lot 3. Lots 1, 2 and 3 shall be referred to as such herein.

B. The location of Lots 1, 2 and 3 are generally shown on Exhibit B.

C. The utilities serving the Property cross over the boundary lines between Lots 1, 2, and 3, and the City of Tukwila has requested that Owner A and Owner B enter into this agreement which will allow for common use of all utilities located on Lots 1, 2 and 3.

NOW, THEREFORE, in consideration of the agreements and covenants herein, and the mutual benefits derived, the parties hereto agree as follows:

1. Grant of Right of Use. Owner A and Owner B hereby grant to each other and their respective Lots 1, 2 and 3, the non-exclusive right to use all existing utilities located on the Property, as shown on the As Built Survey dated October 17, 1995, which is attached hereto as Exhibit C and by this reference made a part hereof (the "Survey"). The Survey does show the legal boundary lines between Lots 1 and 2, which is the line dividing what is labeled Building 2A from 2B; however, it does not show the boundary line between Lot 2 and Lot 3, and should be relied upon only to show the location of the utilities on the Property, and not the legal boundary between Lot 2 and 3.

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2. Access. Owner A and Owner B shall have reasonable access over and across the Property, including that portion not owned by Owner A or Owner B, for all purposes set forth herein.

3. Term. This easement shall be perpetual and shall run with the land and be binding upon the heirs, executors, successors in interest and assigns of Owner A and Owner B, and Lots 1, 2 and 3.

4. Use and Maintenance. This easement is granted for use by Owner A and B and their respective Lots 1, 2 and 3. Owner A and Owner B mutually agree to maintain the utilities, to the extent not maintained by third parties, and to share in the cost of maintaining the utilities on Lots 1, 2 and 3 on an equitable basis.

5. Relocation. Owner A and/or Owner B may relocate the utilities located on its respective Lot 1, 2 or 3, to a different location on the Property if all parties hereto, acting reasonably, can agree upon a relocation site plan, as well as the allocation of the costs of said relocation. The relocation site plan should be acceptable to the non-owning party if the relocated utilities will not interfere with the ability of non-owning party to exercise its rights hereunder. If a utility is relocated, it shall remain subject to the terms hereof.

6. Indemnity. Grantee agrees to release, indemnify and hold harmless the Grantor, and its respective directors, officers, employees, agents, servants and representatives from any and all actions, liabilities, demands, claims, suits, judgments, liens, awards and damages of any kind or character whatsoever (hereinafter referred to as "Claims"), including claims for death or injury to employees of Grantee, costs, expenses and reasonable attorneys fees incurred by Grantor in defense thereof, asserted or arising directly or indirectly from, on account of, or in connection with Grantee's use of the easements and rights granted herein.

7. Waiver. Owner A and Owner B agree that neither shall be liable to the other for failure of utility services because of activities on or about their property, except to the extent said is caused by gross negligence.

8. Binding Effect. The easement granted herein shall be binding upon and shall inure to the benefit of Owner A and Owner B, and Lots 1, 2 and 3, and their respective heirs, successors and assigns, and shall be deemed to run with the land.

DATED the 20<sup>th</sup> day of June, 1997.

OWNER A:

Bank of America NT & SA doing business  
as SeaFirst Bank, as Co-Trustee under  
the Will of Giuseppe Desimone, deceased, and as  
Co-Trustee under the Will of Assunta Desimone, deceased

By: James E. Stock  
Its: VICE PRESIDENT

By: Richard H. Anderson, VICE PRES.

Suzanne M. Hittman

Suzanne M. Hittman, as Co-Trustee under  
the Will of Giuseppe Desimone, deceased, and as Co-Trustee  
under the Will of Assunta Desimone, deceased

Jacqueline E. Danieli

Jacqueline E. Danieli, as Co-Trustee under  
the Will of Giuseppe Desimone, deceased, and as Co-Trustee  
under the Will of Assunta Desimone, deceased

OWNER B:

Joseph R. Desimone

Joseph R. Desimone, individually and as  
Co-Trustee under the Last Will of Richard  
L. Desimone, deceased, and as Personal  
Representative for the Estate of Katherine  
M. Desimone, deceased

Richard L. Desimone, Jr.

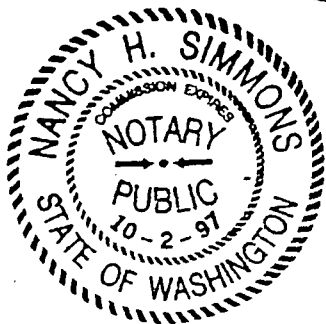
Richard L. Desimone, Jr., individually and  
as Co-Trustee under the Last Will of Richard  
L. Desimone, deceased, and as Personal  
Representative for the Estate of Katherine  
M. Desimone, deceased; and as Trustee  
of the Richard L. Desimone III Trust, the  
John A. Desimone Trust, and the Ann M.  
Desimone Trust

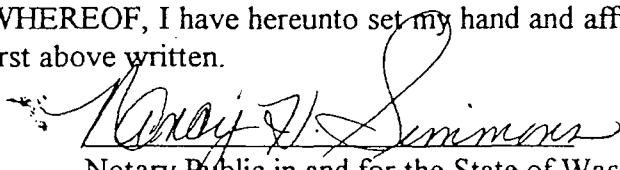
## BANK OFFICERS' ACKNOWLEDGEMENT

State of Washington     )  
                                      )ss  
County of King            )

On this 30th day of April, 1997, before me personally appeared James E. Strock and Richard H. Anderson known to me to be the Vice President and Vice President of Bank of America NT&SA doing business as Seafirst Bank, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said association in its fiduciary capacity as aforesaid, for the uses and purposes therein mentioned, and on oath each stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



  
Notary Public in and for the State of Washington

Printed Name Nancy H. Simmons

residing at Lynnwood, WA

My Commission Expires 10-2-97

STATE OF WASHINGTON )

: SS.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, signed this instrument, on oath stated that he was authorized to execute said instrument as \_\_\_\_\_, of Bank of America NW, N.A., <sup>NTSA</sup> doing business as SeaFirst Bank, to be the free and voluntary act of said corporation, for the uses and purposes mentioned in said instrument.

Dated \_\_\_\_\_, 1997.

Notary Public in and for the  
State of Washington.

Appointment Expires \_\_\_\_\_

Print/type name \_\_\_\_\_

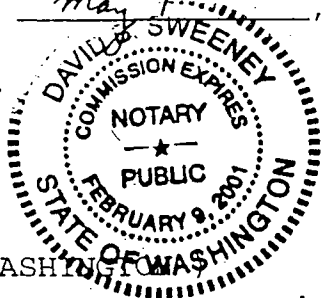
STATE OF WASHINGTON )

: SS.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that Suzanne M. Hittman is the person who appeared before me, signed this instrument and acknowledged it to be her free and voluntary act and deed, for the uses and purposes therein mentioned in the instrument.

Dated May 1, 1997.



David B Sweeney

Notary Public in and for the  
State of Washington.

Appointment Expires 2/9/2001

Print/type name DAVID B. SWEENEY

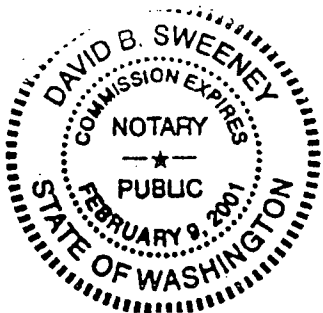
STATE OF WASHINGTON )

: SS.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that Jacqueline E. Danieli is the person who appeared before me, signed this instrument and acknowledged it to be her free and voluntary act and deed, for the uses and purposes therein mentioned in the instrument.

Dated May 7, 1997.



David B Sweeney

Notary Public in and for the  
State of Washington.

Appointment Expires 2/9/2001

Print/type name DAVID B. SWEENEY

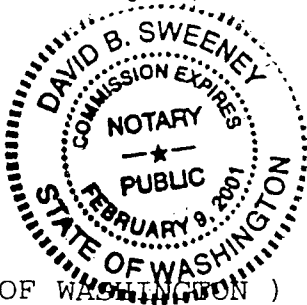
STATE OF WASHINGTON )

: SS.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that Joseph R. Desimone is the person who appeared before me, signed this instrument and acknowledged it to be his free and voluntary act and deed, for the uses and purposes therein mentioned in the instrument.

Dated June 20, 1997.



David B Sweeney  
Notary Public in and for the  
State of Washington.  
Appointment Expires 2/9/2001  
Print/type name DAVID B. SWEENEY

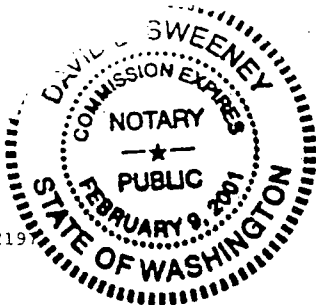
STATE OF WASHINGTON )

: SS.

COUNTY OF KING )

I certify that I know or have satisfactory evidence that Richard L. Desimone, Jr. is the person who appeared before me, signed this instrument and acknowledged it to be his free and voluntary act and deed, for the uses and purposes therein mentioned in the instrument.

Dated April 29, 1997.



David B Sweeney  
Notary Public in and for the  
State of Washington.  
Appointment Expires 2/9/2001  
Print/type name DAVID B. SWEENEY

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